

Senate File 2365 - Reprinted

SENATE FILE 2365
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO SSB 3148)

(As Amended and Passed by the Senate March 7, 2018)

A BILL FOR

1 An Act relating to assistance animals and service animals in
2 housing and misrepresentation of an animal as a service
3 animal or a service-animal-in-training and providing
4 penalties and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **216.8B Assistance animals and**
2 **service animals in housing — penalty.**

3 1. For purposes of this section, unless the context
4 otherwise requires:

5 *a. "Assistance animal"* means an animal that qualifies as a
6 reasonable accommodation under the federal Fair Housing Act, 42
7 U.S.C. §3601 et seq., as amended, or section 504 of the federal
8 Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.

9 *b. "Service animal"* means a dog or miniature horse as set
10 forth in the implementing regulations of Title II and Title
11 III of the federal Americans with Disabilities Act of 1990, 42
12 U.S.C. §12101 et seq.

13 2. A landlord shall waive lease restrictions and additional
14 payments normally required for pets on the keeping of animals
15 for the assistance animal or service animal of a person with
16 a disability.

17 3. A tenant is liable for damage done to any dwelling by an
18 assistance animal or service animal.

19 4. A person who knowingly denies or interferes with the
20 right of a person with a disability under this section is, upon
21 conviction, guilty of a simple misdemeanor.

22 Sec. 2. NEW SECTION. **216.8C Finding of disability and need**
23 **for an assistance animal or service animal in housing.**

24 1. A licensee under chapter 148, 148C, 152, 154B, 154C,
25 or 154D whose assistance is requested by a patient or client
26 seeking a finding that an assistance animal or service animal
27 as defined in section 216.8B, subsection 1, is a reasonable
28 accommodation in housing shall make a written finding regarding
29 whether the patient or client has a disability and, if a
30 disability is found, a separate written finding regarding
31 whether the need for an assistance animal or service animal is
32 related to the disability.

33 2. A licensee under chapter 148, 148C, 152, 154B, 154C, or
34 154D shall not make a finding under subsection 1 unless all of
35 the following circumstances are present:

1 *a.* The licensee has met with the patient or client in person
2 or by telemedicine.

3 *b.* The licensee is sufficiently familiar with the patient
4 or client and the disability.

5 *c.* The licensee is legally and professionally qualified to
6 make the finding.

7 3. The commission, in consultation with the consumer
8 protection division of the office of the attorney general,
9 shall adopt rules regarding the making of a written finding
10 by licensees under this section. The rules shall include a
11 form for licensees to document the licensees' written finding.
12 The form shall recite this section's requirements and comply
13 with the federal Fair Housing Act, 42 U.S.C. §3601 et seq.,
14 as amended, and section 504 of the federal Rehabilitation Act
15 of 1973, 29 U.S.C. §794, as amended. The form shall ask only
16 two questions regarding the qualifications of the patient or
17 client. The form shall ask whether a person has a disability
18 and whether the need for an assistance animal or service animal
19 is related to the disability. The form shall indicate that the
20 responses must be limited to "yes" or "no". The form shall not
21 allow for additional detail.

22 4. A person who, in the course of employment, is asked to
23 make a finding of disability and disability-related need for
24 an assistance animal or service animal shall utilize the form
25 created by the commission to document the person's written
26 finding.

27 5. A landlord may deny a request for an exception to a
28 pet policy if a person, who doesn't have a readily apparent
29 disability, or a disability known to the landlord, fails
30 to provide documentation indicating that the person has a
31 disability and the person has a disability-related need for an
32 assistance animal or service animal.

33 6. This section does not limit the means by which a person
34 with a disability may demonstrate, pursuant to state or federal
35 law, that the person has a disability or that the person has

1 a disability-related need for an assistance animal or service
2 animal.

3 Sec. 3. Section 216C.11, Code 2018, is amended to read as
4 follows:

5 **216C.11 ~~Service dogs and assistive animals~~ Service animals**
6 **and service-animals-in-training — penalty.**

7 1. For purposes of this section, unless context otherwise
8 requires:

9 a. "Disability" means the physical or mental condition of
10 a person which constitutes a substantial disability, and the
11 condition of a person with a positive human immunodeficiency
12 virus test result, a diagnosis of acquired immune deficiency
13 syndrome, a diagnosis of acquired immune deficiency
14 syndrome-related complex, or any other condition related to
15 acquired immune deficiency syndrome. The inclusion of a
16 condition related to a positive human immunodeficiency virus
17 test result in the meaning of "disability" under the provisions
18 of this section does not preclude the application of the
19 provisions of this section to conditions resulting from other
20 contagious or infectious diseases.

21 b. "~~service dog~~" means a dog specially trained to assist a
22 person with a disability, whether described as a service dog,
23 a support dog, an independence dog, or otherwise. "~~Assistive~~
24 animal" means a simian or other animal specially trained or
25 in the process of being trained to assist a person with a
26 disability. "Service animal" means a dog or miniature horse as
27 set forth in the implementing regulations of Title II and Title
28 III of the federal Americans with Disabilities Act of 1990, 42
29 U.S.C. §12101 et seq.

30 2. A person with a disability, a person assisting a
31 person with a disability by controlling a ~~service dog or an~~
32 ~~assistive animal~~ animal or a service-animal-in-training, or
33 a person training a ~~service dog or an assistive animal~~ has
34 the right to be accompanied by a ~~service dog or an assistive~~
35 animal, under control, in any of the places listed in sections

1 216C.3 and 216C.4 without being required to make additional
2 payment for the service ~~dog or assistive animal~~ animal or
3 service-animal-in-training. ~~A landlord shall waive lease~~
4 ~~restrictions on the keeping of animals for the service dog or~~
5 ~~assistive animal of a person with a disability. The person is~~
6 ~~liable for damage done to any premises or facility by a service~~
7 ~~dog or assistive animal.~~

8 3. A person who knowingly denies or interferes with the
9 right of a person under this section is, upon conviction,
10 guilty of a simple misdemeanor.

11 4. a. A person who intentionally misrepresents an animal
12 as a service animal or a service-animal-in-training is, upon
13 conviction, guilty of a simple misdemeanor.

14 b. A person commits the offense of intentional
15 misrepresentation of an animal as a service animal or a
16 service-animal-in-training, if all of the following elements
17 are established:

18 (1) For the purpose of obtaining any of the rights or
19 privileges set forth in state or federal law, the person
20 intentionally misrepresents an animal in one's possession
21 as one's service animal or service-animal-in-training
22 or a person with a disability's service animal or
23 service-animal-in-training whom the person is assisting by
24 controlling.

25 (2) The person was previously given a written or
26 verbal warning regarding the fact that it is illegal to
27 intentionally misrepresent an animal as a service animal or a
28 service-animal-in-training.

29 (3) The person knows that the animal in question is not a
30 service animal or a service-animal-in-training.

31 Sec. 4. EMERGENCY RULES. The Iowa civil rights commission
32 may adopt emergency rules under section 17A.4, subsection 3,
33 and section 17A.5, subsection 2, paragraph "b", to implement
34 the section of this Act enacting section 216.8C and the rules
35 shall be effective immediately upon filing. Any rules adopted

1 in accordance with this section shall also be published as a
2 notice of intended action as provided in section 17A.4.

3 Sec. 5. APPLICABILITY. The section of this Act enacting
4 section 216.8C applies once rules are adopted. Prior to the
5 adoption of the rules and creation of a licensee's written
6 finding form, a tenant seeking an assistance animal or a
7 service animal as a reasonable accommodation in housing
8 shall otherwise demonstrate pursuant to state or federal law
9 that the person has a disability and that the person has a
10 disability-related need for an assistance animal or service
11 animal.